

Updated Information on Duplication of Benefits

As you know, the U.S. Department of Housing and Urban Development (HUD) recently released clarification of the Duplication of Benefits (DOB) requirements under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees. You can find this on our website at <http://www.glo.texas.gov/GLO/documents/disaster-recovery/housing/forms/hud-dob-guidance.pdf>.

Since that time, the Texas General Land Office received guidance from HUD on additional flexibility to the DOB. This should provide more access to individuals who still need assistance, without jeopardizing the quality of homes. As you know, when determining eligibility, the first step is to determine an applicant's post-disaster recovery need. You then must reduce the determined need by funding previously received for the same purposes. The remaining amount and any associated program caps is what the CDBG program is able to award.

Previously, if the determined need exceeded the amount the CDBG program was able to award, the remaining gap had to be supplied in order to move forward with eligibility. With this new flexibility, if a homeowner cannot provide the gap amount, they may accept an award of a lesser amount. Through the use of an acknowledgement form, Subrecipients may make exceptions creating a DOB solution while providing a safe and sanitary home which may include but is not limited to a change in square footage or occupancy size. Any revisions to the home design must still meet all Housing Quality Standards.

For example, an applicant's post-disaster need to fully repair/rehab a home is \$100,000 based on actual bids and program caps. They received \$5,000 from FEMA for that purpose, but did not spend it on housing. The FEMA assistance must be considered as a housing benefit received by the applicant leaving them with \$95,000 in additional assistance which is not duplicative.

With the use of an exception, you can provide \$95,000 worth of home rehab/reconstruct rather than \$100,000 as long as Housing Quality Standards are still met and the inhabitants are left with a safe and sanitary home. Applicants may choose to use other funding sources provided to them for general purposes, but not housing repair, to supplement the project.

Implementation

To allow for this additional flexibility to the DOB in Round 1, it is up to the Subrecipients' discretion to determine if there are housing plan alternates that would apply to a rehab/reconstruct project and assist with an unmet need. Add alternates may include, but are not limited to, the type of material, square footage, and occupancy size. Documentation supporting the revised unit as it relates to the latest change must be provided and verified as valid. These must be identified when set-ups or change orders are submitted to the Housing Contract System for approval by the State.

The CDBG Round 2 Housing Guidelines for Subrecipients need to include the language as follows: Exceptions may only be granted and approved by the State to utilize CDBG funding that otherwise may have been a DOB prior to the new update.

The creation of add alternates needs to be included in bid packets for Round 2 to allow for housing options for individuals.

General Reminders

A DOB worksheet is required for every applicant regardless if they have received any disaster recovery assistance.

If contract fraud is a contributing factor to a DOB, the applicant is able to provide a copy of a report submitted to an entity that has the authority to take action on allegations of contractor fraud. This includes local law enforcement agencies, Texas' Office of the Attorney General, or HUD Office of Inspector General. That report must be filed PRIOR TO the date the Subrecipient began processing their application for assistance, the Subrecipient can include the amount reported as paid to the contractor in the DOB calculation. Any applicant claims that deviate from this exception must be submitted to the Land Office for guidance on how to proceed. *Applicants may not submit reports in an attempt to reduce the amount determined to be a DOB.*

As we apply this new flexibility we will update the guidance based on information we received from our Subrecipients. This is a case by case determination, and each scenario must be evaluated and approved.